

Introduced by Senator Benoit

February 26, 2009

An act to amend Section 4903.5 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

SB 403, as amended, Benoit. Workers' compensation: lien claims.

Existing law ~~provides for~~ *establishes a workers' compensation for system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an employee for injuries incurred in the course of employment.* Existing

Existing law requires the administrative director, after public hearings, to adopt and revise periodically an official medical fee schedule that establishes reasonable maximum fees paid for medical services other than physician services, drugs and pharmacy services, health care facility fees, home health care, and all other treatment, care, services, and specified goods. Existing law authorizes a health care provider or licensed health facility and a contracting agent, employer, or carrier to contract for reimbursement rates different from those in the fee schedule.

Existing law authorizes the Workers' Compensation Appeals Board to determine and allow certain expenses, including certain reasonable expenses incurred by or on behalf of the injured employee—and medical-legal expenses for medical and hospital treatment, as liens against any award of compensation.

This bill, commencing March 1, 2010, would prohibit a lien claim for expenses incurred by or on behalf of the injured employee—and

~~medical-legal expenses for medical and hospital treatment~~ from being filed more than one year from the date the health care provider, or the health care provider's agent, was sent an explanation of benefits or explanation of review paying ~~or objecting to a bill in whole or in part a bill pursuant to the official medical fee schedule or a preferred provider organization (PPO) agreement.~~ The bill would provide that this prohibition shall apply without regard to whether the injury occurs before, on, or after March 1, 2010.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4903.5 of the Labor Code is amended to
2 read:
3 4903.5. (a) No lien claim for expenses as provided in
4 subdivision (b) of Section 4903 may be filed after six months from
5 the date on which the appeals board or a workers' compensation
6 administrative law judge issues a final decision, findings, order,
7 including an order approving compromise and release, or award,
8 on the merits of the claim, after five years from the date of the
9 injury for which the services were provided, or after one year from
10 the date the services were provided, whichever is later.
11 (b) Notwithstanding subdivision (a), any health care provider,
12 health care service plan, group disability insurer, employee benefit
13 plan, or other entity providing medical benefits on a nonindustrial
14 basis, may file a lien claim for expenses as provided in subdivision
15 (b) of Section 4903 within six months after the person or entity
16 first has knowledge that an industrial injury is being claimed.
17 (c) The injured worker shall not be liable for any underlying
18 obligation if a lien claim has not been filed and served within the
19 allowable period. Except when the lien claimant is the applicant
20 as provided in Section 5501, a lien claimant shall not file a
21 declaration of readiness to proceed in any case until the
22 case-in-chief has been resolved.
23 (d) Notwithstanding any other law, no lien claim for expenses
24 *incurred by or on behalf of the injured employee for medical and*
25 *hospital treatment* as provided in subdivision (b) of Section 4903
26 may be filed more than one year from the date the health care
27 provider, or the health care provider's agent, was sent an

1 explanation of benefits or explanation of review paying or objecting
2 ~~to a bill in whole or in part~~ *a bill pursuant to the official medical*
3 *fee schedule promulgated pursuant to Section 5307.1 or a preferred*
4 *provider organization (PPO) agreement.*

5 (1) This subdivision shall apply to all injuries, without regard
6 to whether the injury occurs before, on, or after the operative date
7 of this subdivision.

8 (2) This subdivision shall become operative on March 1, 2010.

9 (e) This section shall not apply to civil actions brought under
10 the Cartwright Act (Chapter 2 (commencing with Section 16700)
11 of Part 2 of Division 7 of the Business and Professions Code), the
12 Unfair Practices Act (Chapter 4 (commencing with Section 17000)
13 of Part 2 of Division 7 of the Business and Professions Code), or
14 the federal Racketeer Influenced and Corrupt Organization Act
15 (Chapter 96 (commencing with Section 1961) of Title 18 of the
16 United States Code) based on concerted action with other insurers
17 that are not parties to the case in which the lien or claim is filed.